

**SOUTH CAROLINA PUBLIC SERVICE COMMISSION
STANDING HEARING OFFICER DIRECTIVE**

DOCKET NO. 2014-346-WS

Order No. 2017-59-H

OCTOBER 10, 2017

Standing Hearing Officer: David Butler

DOCKET DESCRIPTION:

Application of Daufuskie Island Utility Company, Incorporated for Approval of an Increase for Water and Sewer Rates, Terms and Conditions (Remand)

MATTER UNDER CONSIDERATION:

Procedural Path Forward on Remand and Related Matters

STANDING HEARING OFFICER’S ACTION:

The question before this Standing Hearing Officer is what is the best procedural path forward with regard to the remand of this case from the South Carolina Supreme Court? The Court determined that the case should be remanded to the Commission for a “de novo” hearing. Consultation with the parties in the case revealed widely divergent viewpoints as to what the Court meant by this terminology, as shown by discussions held during a telephone status conference held on October 10, 2017.

Counsel for Daufuskie Island Utility Company, Incorporated (“DIUC” or “the Company”) opined that the Commission should consider the record presented in the original hearing, and accept new testimony solely on issues referred to by the Supreme Court, namely property taxes, plant in service, bad debts, management fees, and rate case expenses. Said counsel also stated the belief that the Supreme Court opinion did not allow for any discovery in this case.

Although counsel for the Office of Regulatory Staff (ORS) agreed with the “narrow scope” theory of the Company’s attorney, said counsel also expressed the view at one point that perhaps discovery could be utilized.

In contrast, counsel for the Intervenor Property Owners Associations referred to the “de novo” language of the Supreme Court opinion, and stated his belief that the Court intended that the Commission hold a new hearing on all issues. This belief is indeed specifically stated by the Court in the Court’s opinion contained under heading 8 in the Court’s written opinion. See Daufuskie Island Utility Company, Inc. v. South Carolina Office of Regulatory Staff, 803 S.E. 2d 280 (2017). The Standing Hearing Officer concludes, based

on the language in the opinion of the Supreme Court, that the “de novo” terminology clearly means that the Court intended that the Commission hold a new hearing on all issues in the case. Further, since the Commission will hold a new hearing on all such issues, the Commission’s discovery rules are clearly applicable.

DIUC’s counsel stated a preference for the pre-filing of testimony, hearing, and issuance of an Order in this case before the end of 2017, based on the questionable ability of the Company to obtain a continuing appeal bond during the pendency of the remand, and also the expense of said bond. However, the Company’s counsel had not obtained any specific information on availability or expense. Accordingly, this Standing Hearing Officer has no specific information to rely on in justifying the promulgation of an expedited schedule.

Accordingly, I hold that the pre-filing schedule on remand shall be as follows:

1. The Applicant DIUC must prefile with the Commission 1 copy of the direct testimony and exhibits of the witnesses it intends to present and serve the testimony and exhibits of the witnesses on all Parties of Record on or before November 3, 2017 (must be post-marked on or before this date).
2. All Other Parties of Record and the Office of Regulatory Staff (ORS) must prefile with the Commission 1 copy of direct testimony and exhibits of the witnesses they intend to present and serve the testimony and exhibits of the witnesses on all Parties of Record on or before January 9, 2018 (must be post-marked on or before this date).
3. The Applicant filing Rebuttal Testimony must prefile with the Commission 1 copy of the testimony and exhibits of the witnesses it intends to present and serve the testimony and exhibits of the witnesses on all Parties of Record on or before January 16, 2018. (Rebuttal testimony and exhibits must be in the offices of the Commission and in the hands of the parties on this date).
4. All Other Parties of Record and the ORS filing Surrebuttal Testimony must prefile with the Commission 1 copy of the testimony and exhibits of the witnesses they intend to present and serve the testimony and exhibits of the witnesses on all Parties of Record on or before January 23, 2018. (Surrebuttal testimony and exhibits must be in the offices of the Commission and in the hands of the parties on this date).

Failure to comply with these instructions could result in proposed witnesses’ testimony and exhibits being excluded in the subject proceeding, or other possible consequences.

The hearing in this matter shall begin on Tuesday, January 30, 2018 at 10:30 AM in the offices of the Public Service Commission of South Carolina, before the Commission.

